



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency:

Department of Retirement Systems



Permanent Rule



Emergency Rule

Effective date of rule:**Permanent Rules**

- ☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:**Emergency Rules**

- ☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain: _____

Purpose: The department has been reviewing and rewriting the Teachers' Retirement System rules to reflect current policy and clear writing standards. This is the third and final phase of the project. Phases 1 and 2 were completed in 2005.

Citation of existing rules affected by this order:

Repealed: WAC 415-112-200, -210, -220, -230, -260, 530, -810, -820, -830, -835

Amended: WAC 415-112-255, -256, -295, -332, -432, -434, -435, 474, 509, 520, 715

Suspended: _____

Statutory authority for adoption: See Attachment 1

Other authority: See Attachment 1

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 06-15-013 on July 6, 2006.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: _____

phone () _____

Address: _____

fax () _____

e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: _____

Date adopted: August 23, 2006

NAME (TYPE OR PRINT)

Sandra J. Matheson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 24 2006

TIME

10:30

WSR

06-18-006

AM
PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>11</u>	Repealed	<u>10</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>11</u>	Repealed	<u>10</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>11</u>	Repealed	<u>10</u>

ATTACHMENT 1
CR-103
Teachers' Retirement System

WAC	Statutory Authority	Other Authority
WAC 415-112-255	RCW 41.50.050(5)	RCW 41.32.310
WAC 415-112-256	RCW 41.50.050(5)	RCW 41.32.762, 810, 825, 865, 870
WAC 415-112-295	RCW 41.50.050(5)	RCW 41.32.065
WAC 415-112-332	RCW 41.50.050(5)	RCW 41.32.010 (26)(b)
WAC 415-112-432	RCW 41.32.345	RCW 41.32.345
WAC 415-112-434	RCW 41.32.345	RCW 41.32.345
WAC 415-112-435	RCW 41.32.345	RCW 41.32.345
WAC 415-112-474	RCW 41.50.050(5)	RCW 41.04.660
WAC 415-112-509	RCW 41.50.050(5)	
WAC 415-112-520	RCW 41.50.050(5)	
WAC 415-112-715	RCW 41.50.050(5)	
REPEALERS	Statutory Authority	
WAC 415-112-200	RCW 41.50.050(5)	
WAC 415-112-210	RCW 41.50.050(5)	
WAC 415-112-220	RCW 41.50.050(5)	
WAC 415-112-230	RCW 41.50.050(5)	
WAC 415-112-260	RCW 41.50.050(5)	
WAC 415-112-530	RCW 41.50.050(5)	
WAC 415-112-810	RCW 41.50.050(5)	
WAC 415-112-820	RCW 41.50.050(5)	
WAC 415-112-830	RCW 41.50.050(5)	
WAC 415-112-835	RCW 41.50.050(5)	

NEW SECTION

WAC 415-112-255 How do I purchase or restore Plan 1 service credit? This section applies to Plan 1 members who qualify by this chapter or chapter 41.32 RCW to purchase credit for previous service, or to restore service credit after withdrawing contributions or taking a lump sum payment in lieu of benefits. This section does not apply to service credit for substitute teaching. See WAC 415-112-140.

(1) **Do I qualify to purchase or restore service credit?** In addition to meeting the statutory requirements for the specific type of service you performed:

(a) You must be an active TRS member at the time you apply to purchase or restore service credit;

(b) If purchasing credit for previous service, you must return to TRS service for twenty or more full-time days or the equivalent within a fiscal year after providing that service; and

(c) You must purchase or restore the service credit according to the provisions of this section.

(2) **How do I apply to purchase or restore service credit?** You may apply to purchase service credit by submitting satisfactory proof of your service to the department.

(3) **What are the time limits for paying for service credit?** You must make payment according to this subsection or before retirement, whichever is sooner. You may make payment in full in one payment or make annual installment payments, consistent with the following deadlines:

(a) If you make payment in full in one payment, the entire amount is due no later than the end of the fifth fiscal year after which you return to TRS service. For example, if you return to service in April 2004, the deadline is June 30, 2008.

(b) If you make payment in annual installments:

(i) The first annual installment is due no later than the end of the fifth fiscal year after which you return to TRS service; and

(ii) The final annual installment is due no later than June 30 of the fourth year following the first annual installment. See RCW 41.32.310.

(4) **Does the deadline in subsection (3) of this section change if I separate from service before making full payment?**

(a) If you separate and withdraw your contributions (terminate membership) before making full payment, the deadline for purchasing service credit and for restoring service credit

differ as follows:

(i) **Purchasing service credit for a previous period of service.** You must reestablish membership and then make payment in full by the original deadline.

(ii) **Restoring service credit after withdrawal of contributions or receipt of a lump sum payment taken in lieu of benefits.** The time limit will start over each time you reestablish membership if:

(A) You did not make any payments for the service credit and you withdrew from TRS before the first annual installment was due (see subsection (2)(a)(ii)(B) of this section); or

(B) You made at least the initial annual installment and withdrew before the end of the fourth fiscal year after the initial installment.

In cases other than (a)(ii)(A) or (B) of this subsection the original deadlines remain in place.

(b) If you separate, but do not withdraw your contributions, the original deadline applies. You may, however, continue to make payments while you are separated from service.

(5) What happens if I do not make payment in full by the deadline?

(a) If you were eligible to purchase or restore service credit and did not begin to do so prior to the deadline, you may purchase or restore the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370, and chapter 415-10 WAC.

(b) If you enter into an arrangement to purchase service credit and fail to make the final payment within the time limit established by law:

(i) The arrangement is terminated and all payments you made will be returned to you; and

(ii) You may purchase the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370 and chapter 415-10 WAC.

NEW SECTION

WAC 415-112-256 How do I purchase or restore Plan 2 or 3 service credit? This section applies to Plan 2 and 3 members who qualify by this chapter or chapter 41.32 RCW to purchase credit for previous service or to restore service credit after withdrawing contributions or taking a lump sum payment in lieu of benefits. This section does not apply to service credit for substitute teaching. See WAC 415-112-140.

(1) **Do I qualify to purchase or restore service credit?** In addition to meeting the statutory requirements for the specific type of service you performed, you must:

(a) Be an active TRS member when you apply to purchase or restore the service credit; and

(b) Purchase the service credit according to the provisions of this section.

(2) **How do I apply to purchase or restore service credit?** You may apply to purchase service credit by submitting satisfactory proof of your service to the department.

(3) **What are the time limits for paying for service credit?** You must make payment in full according to this subsection or before retirement, whichever is sooner.

(a) You must make payment in full, in one payment, within five years of returning to TRS service:

(i) To establish service credit for military service or unpaid authorized leave of absence. See RCW 41.32.810, 41.32.865 and 41.32.892.

(ii) To restore service credit after withdrawing contributions. See RCW 41.32.825.

(b) You must make payment in full, in one payment, within two years of returning to TRS service to restore service credit after a lump-sum distribution in lieu of a benefit payment. See RCW 41.32.762 and 41.32.870.

(4) **What are the consequences of separating from service before making full payment?**

(a) If you separate and withdraw your contributions (terminate membership) before making full payment, you must return to membership and make payment in full by the original deadline.

(b) If you separate but do not withdraw your contributions, you may purchase the service credit whether or not you return to service. The original deadline applies.

(5) **What happens if I do not make payment in full by the deadline?** If you were eligible to purchase or restore service

credit and did not make payment in full by the deadline, you may purchase or restore the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370, and chapter 415-10 WAC.

NEW SECTION

WAC 415-112-295 May I use "unpurchased" out-of-state teaching service credit to determine eligibility for retirement?

(1) If you earned service credit in an out-of-state retirement system that covers teachers in public schools and do not purchase that service credit, you may use it solely to qualify for retirement.

(2) If you use "unpurchased" out-of-state service credit to qualify for retirement, your retirement benefit:

(a) Will be based solely on your years of service credit in the Washington teachers' retirement system; and

(b) Will be actuarially reduced according to the age you would have been eligible to retire if you had not counted your out-of-state service credit. See RCW 41.32.065.

(3) You may also be eligible to purchase a limited amount of service credit for out-of-state teaching under this chapter.

Example: Jane is a member of TRS Plan 1. She has five years of out-of-state service credit as a public school teacher and twenty-five years of service credit in TRS Plan 1. She is eligible to retire from TRS Plan 1 with thirty years of service credit; however, her retirement benefit will be based solely on her twenty-five years of TRS service credit.

NEW SECTION

WAC 415-112-332 How does the department calculate service credit for Plan 2 and 3 members? (1) How is my service credit calculated? RCW 41.32.010 (26)(b) provides three methods that may be used to calculate service credit for Plan 2 and 3 members:

(a) **Twelve-month method:** If you meet the following

conditions, you will receive one service credit month for each month of a twelve-month period (September through August):

(i) You were employed at least nine calendar months starting in September; and

(ii) You earned earnable compensation for at least eight hundred ten hours during September through August.

The twelve service credit months earned under this subsection are credited to you on August 31.

(b) **Partial service credit method:** If you meet the following conditions, you will receive one-half of a service credit month for each month of a twelve-month period (September through August):

(i) You were employed at least nine calendar months starting in September; and

(ii) You earned earnable compensation for at least six hundred thirty hours, but less than eight hundred ten hours during September through August.

The six service credit months earned under this subsection are credited to you on August 31.

(c) **Month-by-month method:** You will receive service credit on a month-by-month basis as follows:

(i) One service credit month for each calendar month in which you earn earnable compensation for ninety or more hours;

(ii) One-half service credit month for each calendar month in which you earn earnable compensation for at least seventy hours but less than ninety hours; and

(iii) A quarter of a service credit month for each calendar month in which you earn earnable compensation for some but less than seventy hours.

(2)(a) **Twelve-month method.** If you qualify, the department will calculate your service credit using the twelve-month method.

Example.

Sept.	60
Oct.	60
Nov.	60
Dec.	60
Jan.	60
Feb.	60
March	160
April	160
May	160
June	

July	
Aug.	
Total	840

Mary is a Plan 3 member who worked nine months, for a total of 840 hours, as shown in the table. Using the twelve-month method, Mary receives one service credit month for each of twelve calendar months, for a total of twelve service credit months. The department will credit Mary with twelve service credit months on August 31. If Mary separates service at the end of May, she will receive nine service credit months. If she separates service at the end of June, she will receive ten service credit months.

(b) **Partial service credit method.** If you do not qualify for the twelve-month method, and you meet the requirements in subsection (1)(b) of this section, the department will calculate your service credit using the partial service credit method.

(c) **Month-by-month.** The month-by-month method will be used if you leave service before the end of the school year or otherwise do not meet the requirements for the twelve-month method or the partial service credit method.

(3) If you are employed by two or more employers, you will receive no more than one service credit month for any calendar month.

NEW SECTION

WAC 415-112-432 Do I qualify for the alternate computation of earnable compensation in RCW 41.32.345? RCW 41.32.345 provides an optional method of computing earnable compensation for part-time TRS Plan 1 members. This method is intended to ensure that a TRS Plan 1 member who earns a fractional year of service credit will receive benefits proportional to benefits received by a member who earns a full year of service credit.

(1) To be eligible for the alternate calculation, you must meet the requirements in subsection (2) or (3) of this section for:

- (a) Each fiscal year for two consecutive fiscal years; or
- (b) Each of the two twelve-month periods contained in an alternate period, provided that you meet the qualifications for using an alternate period for the calculation of your AFC under WAC 415-112-430(2).

(2) Service for a single employer. If you work for one and only one employer during the twelve-month period, you must

satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contract.

(i) If you work for a school district or educational service district, you must be under a part-time contract from the first teaching day to the last teaching day of the school's official calendar.

(ii) If you work for a community or technical college, school for the blind, or school for the deaf, you must be under part-time contracts for at least three of the four academic quarters (summer, fall, winter, or spring).

(b) Instructional position. You must spend more than seventy-five percent of your total hours of service as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor.

(c) Number of days. During the twelve-month period, you must be employed at least twenty days or the equivalent, but less than eighty percent of the days in your employer's official calendar. For purposes of this calculation, the department considers that the official calendar of a school district or educational service district has one hundred eighty days.

(3) Service for two or more employers. If you work for more than one employer during the twelve-month period, you must satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contracts. You must be employed only under part-time contracts with a school district, educational service district, community or technical college, school for the deaf, or school for the blind for the equivalent of three of the four academic quarters (summer, fall, winter, or spring).

Example 1. Susan is employed part time with School District B from September 1 through December 31. She is employed with School District C from January 1 through June 20. Susan meets the "written contract" requirement of this subsection because she is under contract for the equivalent of three academic quarters (fall, winter, and spring).

Example 2. Bill is employed with School District B from September 1 through December 31. He is employed with Community College C for winter and spring quarters. Bill meets the "written contract" requirement of this subsection because he is under contract for the equivalent of three academic quarters (fall, winter, and spring).

(b) Instructional position. You must spend more than seventy-five percent of your total hours of service as a

classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor.

(c) Number of days. During the twelve-month period, you must be employed at least twenty days or the equivalent, but less than eighty percent of the days in your employers' official calendars, as illustrated in the example. For purposes of this calculation, the department considers that the official calendar of a school district or educational service district has one hundred eighty days. The number of days in the official calendars of community and technical colleges may vary.

Example: Sue worked for 10 days at School District A, which is considered to have 180 days in its official calendar. She worked for 90 days at Community College B, which has 150 days in its official calendar. She worked 5.6% (10/180) of School District A's official calendar plus 60% (90/150) of Community College B's official calendar for a total of 65.6%.

(4) The department may consider additional information to determine if you meet the requirements in this section. Upon the department's request, employers must provide, without limitation, the following information:

(a) For school district employees, the salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200 by the school district; and

(b) Documentation indicating:

(i) Whether your position is included on the employing district's salary schedule, in workload provisions, or in a collective bargaining agreement;

(ii) Whether your position has duties, responsibilities, workload requirements, or methods of pay similar to those of positions found in the district's schedule, workload provisions, or collective bargaining agreement;

(iii) When your position was created, and how long you held the position;

(iv) Whether you have previously retired under the provisions of chapter 41.32 RCW.

NEW SECTION

WAC 415-112-434 How is my earnable compensation adjusted if I meet the requirements in WAC 415-112-432 for two consecutive fiscal years? If you meet the requirements in WAC 415-112-432 for each fiscal year for two consecutive fiscal years, you may choose to have your annual earnable compensation computed according to this section rather than WAC 415-112-430.

(1) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the hours per day reported under (a) of this subsection, by the number of days reported under (b) of this subsection. For each contracted position you occupied during the fiscal year, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers there are seven hours in a school day.

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of hours reported by your employers; and

(b) The number of days in the employer's official calendar under a regular full-time contract:

(i) For K-12 teachers, the department will count only days identified in contracts adopted pursuant to RCW 28A.405.200. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a "regular full-time contract."

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of days reported by your employers.

(2) The department will calculate your average hourly rate by dividing the compensation reported under (b) of this subsection, by the hours reported under (a) of this subsection. Your employer(s) must provide the following written information:

(a) Total hours you worked during the fiscal year under all employment contracts with the employer; and

(b) Total earnable compensation you earned during the fiscal year under all employment contracts with the employer.

(3) To determine your adjusted earnable compensation for each fiscal year, the department will multiply your average hourly wage determined in subsection (2) of this section, by the number of hours in an official calendar, as determined by

subsection (1) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

NEW SECTION

WAC 415-112-435 How is earnable compensation adjusted for TRS Plan 1 members in extended school year programs? If you meet the requirements in WAC 415-112-432 for each year in an alternate period as defined in WAC 415-112-430, you may choose to have your annual earnable compensation computed according to this section rather than WAC 415-112-430. If you meet the requirements in WAC 415-112-432 for both, an alternate period and two consecutive fiscal years, you may also have your earnable compensation calculated by fiscal years under WAC 415-112-434.

(1) For purposes of this section, the "alternate period" in WAC 415-112-430 (1)(b) will be divided into two consecutive twelve-month periods and each will be referred to as an "alternate year." Annual earnable compensation will be determined for each alternate year.

(2) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the hours per day reported under (a) of this subsection, by the number of days reported under (b) of this subsection. For each contracted position you occupied during the alternate year, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers there are seven hours in a school day.

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of hours reported by your employers.

(b) The number of days in the employer's official calendar under a regular full-time contract:

(i) For K-12 teachers, the department will count only days identified in contracts adopted pursuant to RCW 28A.405.200. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a "regular full-time contract."

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of days reported by your employers.

(3) The department will calculate your average hourly rate by dividing the compensation reported under (b) of this subsection, by the hours reported under (a) of this subsection. Your employer(s) must provide the following written information regarding your employment:

(a) Total hours you worked during the alternate year under all employment contracts with the employer; and

(b) Total earnable compensation you earned during the alternate year under all employment contracts with the employer.

(4) To determine your adjusted earnable compensation for the alternate year, the department will multiply your average hourly wage determined in subsection (3) of this section, by the number of hours in the official calendar, as determined by subsection (2) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

NEW SECTION

WAC 415-112-474 Is compensation from shared leave earnable compensation? If you receive leave through the leave sharing program created by RCW 41.04.660, the compensation you receive from your employer for that leave is earnable compensation.

NEW SECTION

WAC 415-112-509 When will the department approve my application for service retirement? The department will approve your application for service retirement only after you:

(1) Submit a properly completed form according to the provisions of WAC 415-112-507;

(2) Meet the age and service requirements in WAC 415-112-500 for Plan 1, WAC 415-112-501 for Plan 2, or WAC 415-112-502 for Plan 3;

(3) Separate from service with all employers as defined in RCW 41.32.010(11);

(4) Have no written agreement to return to employment with an employer; and

(5) Pay in full for any service credit you wish to purchase or restore.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-520 ~~((Date from which service retirement allowance accrues.))~~ When do my monthly retirement payments begin? ~~((When does my retirement allowance become payable?))~~

~~(1) ((The department must receive proof and payment to establish membership or additional service credit before your retirement allowance will be payable. After the department receives the necessary proof and payment and approves your application for service retirement, your retirement allowance is payable on:~~

~~(a) July 1 following your final year of service if you established a full year of Washington service credit for the year in which you retired; or~~

~~(b) The first of the month following the month that you terminated public school service.~~

~~(2) If you terminate public school employment before you are eligible for a service retirement allowance, you may later qualify for a deferred retirement allowance based on your age if you are not employed in public education. If you qualify, your retirement allowance is payable on the date you reach the minimum age required to start receiving payments.))~~ The department will issue your first retirement allowance payment at the end of the month in which you retire.

(2) If your accrual date is prior to the date your application is approved, you will receive a lump sum payment of the amount that has accrued prior to your first payment. Thereafter, you will receive the calculated monthly benefit.

NEW SECTION

WAC 415-112-715 **Who gets the balance of my monthly retirement allowance if I die partway through a month?** If you have entered retirement status and die part way through a month, a prorated portion of the defined benefit retirement allowance payable for the month of your death will be paid to the beneficiary named on the form in effect at the time of your death, if that person or entity survives your death. If your named beneficiary has died or is no longer in existence, the prorated amount will be paid to your estate.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 415-112-200	Establishing credit for previous service.
WAC 415-112-210	Withdrawal before final date for establishing additional credit.
WAC 415-112-220	Withdrawal before making final payment to establish additional credit.
WAC 415-112-230	Failure to make final payment to establish credit.
WAC 415-112-260	How is service credit evaluated for service in higher institutions?
WAC 415-112-530	Balance of monthly payment due on date of death.
WAC 415-112-810	Who qualifies for the alternate computation of earnable compensation in RCW 41.32.345?
WAC 415-112-820	What is a bona fide position for purposes of WAC 415-112-810?
WAC 415-112-830	How is earnable compensation adjusted for bona fide employees?
WAC 415-112-835	How is the computation in WAC 415-112-830 modified for teachers in extended school year programs?